



Remote commissioning

This resource gives lawyers and paralegals information and useful tips on remote commissioning. It includes the following sections:

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Note: This resource does not include guidance on electronic signatures. For details on this topic, lawyers and paralegals should check the [Electronic Commerce Act, 2000](#).

1. Remote commissioning defined

Remote commissioning uses a virtual meeting platform to authenticate and collect signatures for commissioning affidavits and statutory declarations. Examples include:

- meeting with a client on a [virtual meeting platform](#) and guiding the client to sign a legal document while the lawyer or paralegal watches. The client then sends the original signed document to the licensee who signs as a witness.
- logging into the same platform to view and electronically sign the same document at the same time from different locations.

2. Key duties of a commissioner

Commissioners for taking affidavits administer oaths, and commission affidavits and statutory declarations. A commissioner must:

- verify the deponent's identity
- administer the oath
- witness the deponent's signature
- confirm the signature is real
- sign the *jurat* to execute the document (the jurat is the part of the document where you certify when and where you took the affidavit or declaration).

3. Applicable legislation

In Ontario, the [*Commissioners for Taking Affidavits Act*](#) (the “Act”) governs the practice of commissioning, including remote commissioning.

Section 9(1) of the *Act* states that a deponent must take an oath or make a declaration in the physical presence of the commissioner, notary public or other authorized person.

When the commissioner does not meet with the deponent or declarant in person, section 9(2) of the *Act* allows remote administration of the oath or declaration. This applies only when the conditions identified in section 1 of

[*O. Reg. 431/20: Administering oath or declaration remotely*](#) (the “Regulation”) are met.

4. Conditions for remote commissioning

Lawyers and paralegals **must** follow the conditions in the Regulation when remote commissioning:

1. **See, hear and communicate in real time.** The commissioner and the deponent must use electronic communication that allows them to see, hear and communicate with each other during the entire process.
2. **Confirm deponent's identity.** The commissioner must check and confirm the identity of the deponent.

3. **Use a modified jurat.** The commissioner must use a jurat that shows that remote commissioning was administered in accordance with the Regulation and includes the location of both the commissioner and the deponent. An example of the modified jurat is included in the Ministry of the Attorney General's [Guide for newly appointed commissioners for taking affidavits in Ontario](#).
4. **Make sure the deponent understands.** The commissioner must take steps to make sure the deponent understands the document they are signing.
5. **Maintain record of remote commissioning.** The commissioner must keep a record of the transaction.

5. Risks of remote commissioning and tips to mitigate risk

This section explains the risks linked to remote commissioning for clients, lawyers, paralegals and other commissioners. It also gives practical tips to help licensees lower those risks.

Risks	Practice tips
Fraud and identity theft. Reduced or no in-person contact increases the chance of fraud and identity theft.	Consider if the matter shows red flags of fraud. Review the Law Society's Red flags of fraud worksheet and the Federation of Law Societies' Risk advisories for the legal profession.
Legal incapacity, duress or undue influence. Remote commissioning makes it harder to notice if someone lacks legal capacity or is under duress or undue pressure. The commissioner may not see off-screen influences or people forcing the deponent to act.	Check for red flags of legal incapacity, duress or undue influence. If concerns arise, consider taking steps to address them or decide if you should withdraw. Ask the deponent to scan the room with their camera to confirm that no one else is present.
Reduced level of client service. Without safeguards, the client may not receive copies of the signed documents. The client may also feel unsure or unable to ask questions about the documents.	Plan to give the client copies of the signed documents. Confirm your client's understanding of the documents and give them time to ask questions before signing.

Risks	Practice tips
Technological limitations or uncertainty. Poor video quality, network problems or potential document tampering may make it hard to confirm the contents of the document details.	Use the Law Society's Remote commissioning checklist to guide and document the remote commissioning process.

6. The Law Society's Remote commissioning checklist

To lower the risks linked to remote commissioning, the Law Society advises licensees to use its [Remote commissioning checklist](#).

7. Related resources

- [Remote commissioning checklist](#)
- [Guide for newly appointed commissioners for taking affidavits](#).
- [Commissioner for taking affidavits](#)
- [Notary public](#)
- [Client identification and verification requirements](#)
- [Virtual meetings](#)
[Red flags of fraud, money laundering, terrorist financing and other illegal activity](#)
- [worksheet](#)
- [Red flags of legal incapacity, duress or undue influence worksheet](#)
- [Strategies for preventing undue influence during remote meetings & attestation](#)*

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